HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION NO.16989 OF 2006

BETWEEN

Madasu Lakshmi Kanta Prasuna & others

.....Petitioners

And

Kukatpally Municipality,
Kukatpally, Ranga Reddy District
Rep. by its Commissioner.

.....Respondents

::O R D E R ::

Counsel for the Petitioners : Shri O. Manohar Reddy

Counsel for the Respondent : Shri P. Radha Krishna

Dated: 25.08.2006

Per G.S. SINGHVI, CJ

This is a petition for quashing notices dated 04.08.2006 issued by Commissioner, Kukatpalli Municipality (for short 'the Commissioner') requiring the petitioners to remove unauthorized structure constructed in the complex known as Alluri Complex.

In the affidavit filed by petitioner No.1 - Madasu Lakshmikanta Prasuna, it has been averred that the petitioners have purchased shops/godowns in premises bearing No. 2-22-275, Bhagyanagar Colony, Kukatpally, Hyderabad by registered sale-deeds. It has been further averred that the vendor had constructed the building after obtaining permission from Hyderabad Urban Development Authority (HUDA) under Section 14 (3) of the Andhra Pradesh Urban Areas (Development) Act, 1975. Still further, it has been averred that 4,600 sft. was earmarked for parking and constructed portion of the ground floor is 18,046 sft. The owner has sold the space earmarked as godown. The grievance of the petitioners is that the impugned notices have been issued without giving them opportunity of hearing and they have been condemned unheard.

We have heard learned counsel for the parties and perused the record. At the hearing, we asked the learned counsel to show the sanctioned building plan and other documents like permission granted by HUDA to the vendor to construct the building and the sale-deeds vide which his

clients purchased the shops/godowns etc., but could not produce those documents.

In our opinion, the petitioners' failure to produce basic documents, which constitute the foundation of their claim that no unauthorized construction has been raised by them or the vendor, disentitles them from seeking relief under Article 226 of the Constitution of India. However, keeping in view the fact that the impugned notices were issued without complying with the rules of natural justice, we feel that ends of justice would be met by giving liberty to the petitioners to appear before the Commissioner and produce all the documents to show that they have not made any unauthorized construction with a further direction to the Commissioner to decide the same within a specified timeframe.

Hence, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioners shall appear before the Commissioner and produce all documents to show that they have not raised any construction in violation of the sanctioned plan. They shall also be free to raise all legally permissible objections against notices dated 04.08.2006.

2) Within next two weeks, the Commissioner shall consider the objections and documents produced by the petitioners, hear them and pass appropriate order.

3) If the Commissioner comes to the conclusion that the

petitioners have made unauthorized construction or any deviation has been made from the sanctioned plan, then he may order demolition of such illegal or unauthorized construction. However, such order shall not be given effect for a period of seven days within which the petitioners shall be free to avail appropriate legal remedy including the one by way of filing fresh petition.

Since the notices impugned in the writ petition were issued in furtherance of the direction given by the Division Bench, we direct that in future, the writ petitions filed in the matter of removal of unauthorized structure or illegal construction shall be listed before the Division Bench as per roster.

We also deem it proper to observe that before issuing notice for demolition, the concerned authorities of the municipality should comply with the rules of natural justice. This would go a long way to obviate unnecessary litigation.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

25.08.2006
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